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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,939	01/11/2002	Lisa Dhar	495812001900	9372
20872	7590	12/15/2004		
MORRISON & FOERSTER LLP 425 MARKET STREET SAN FRANCISCO, CA 94105-2482			EXAMINER DICUS, TAMRA	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/043,939

Applicant(s)

DHAR ET AL.

Examiner

Tamra L. Dicus

Art Unit

1774

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 11-19, 40-48, and 50-53.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues Campbell, Yin and Yudin fails to disclose or suggest a multilayer optical article having a reflective layer and other features as recited in instant claim 11 for a number of reasons. Campbell, as previously set forth teaches the exact same range surface flatness and transmission flatness requirements as Applicant claims using two substrates and using photocurable polymer adherents (col. 9, lines 45-60 of Campbell). Campbell also teaches the article is used in optical systems including prisms, beam splitters, lenses, mirrors, etc. and used in holographic data storage systems having the same flatness requirements see col. 12, lines 31-64. A difference in the structure is that Applicant's add a third substrate, which is merely duplication of parts as previously set forth and not patentably significant in view of the prior art. Again, see Campbell's patented claims 1, 3, and 4 and the Abstract. Another difference is adding a reflective layer. However, the primary and secondary references teach multilayered optics, the tertiary reference was not used to teach multilayer optical articles, but the mere addition of a reflective surface in the optical technology for producing a three-dimensional type holograms. 3-D holograms reflect light at different angles. Again, see col. 3, lines 50-55, col. 8, lines 34-46, and also col. 8, lines 18-68 of Yudin. Yin was also used to teach laminating multilayer optical articles use photopolymers as the adherent, the same as Applicant. Campbell suggests their article can be used in various optical elements including prisms, mirrors, and beam splitters, indeed reflect light. Yudin teaches when using reflective materials, the result is a 3-D type hologram reflecting light differently. Applicant claims diffractive grating which Yudin also teaches along with reflective surfaces and/or articles in optical technology for reflecting light. See the Abstract of Yudin. Applicant argues that because Campbell teaches a bow value that it is not combinable with Yudin because they disclose different structures. This argument is not persuasive because Campbell teaches the essential elements of the structure. Yudin again was only used to show adding reflective layers or surfaces is known within the optical technology. The rejections are maintained for reasons of record. Thus, the applied prior art is analogous art, the combination is valid, and success would be expected.



RENA DYE

SUPERVISORY PATENT EXAMINER

A.O. 1774

12/10/04